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FILED

United States District Court

DEC 22 2021

AK

Case No. 1:19-CR-00277(I)

(write the number including letters of your criminal case)

THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

UNITED STATES OF AMERICA

V.

Concepcion Malinek

(write your name here)

MOTION FOR
SENTENCE REDUCTION
PURSUANT TO
18 U.S.C. § 3582(c)(1)(A)
(COMPASSIONATE RELEASE)
(Pro Se Prisoner)

NOTICE

Federal Rule of Criminal Procedure 49.1 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

I. MOTION

I hereby move the court for a reduction in sentence (compassionate release) pursuant to § 603 of the First Step Act of 2018 and 18 U.S.C. § 3582(c)(1)(A).

Indicate the reasons for your motion, select all that apply:

- ☐ I have been diagnosed with a terminal illness.
- ☒ I have a serious physical or medical condition, that substantially diminishes my ability to provide self-care within the environment of a correctional facility, from which I am not expected to recover.
- ☒ I have a serious functional or cognitive impairment that substantially diminishes my ability to provide self-care within the environment of a correctional facility, from which I am not expected to recover.
- ☒ I have deteriorating physical or mental health because of the aging process that substantially diminishes my ability to provide self-care within the environment of a correctional facility, from which I am not expected to recover.
- ☐ I am (i) at least 65 years old; (ii) am experiencing a serious deterioration in physical or mental health because of the aging process; and (iii) have served at least 10 years or 75 percent of my term of imprisonment, whichever is less.
- ☐ The caregiver of my minor child or children has died or become incapacitated and I am the only available caregiver for my child or children.
- ☐ My spouse or registered partner has become incapacitated and I am the only available caregiver for my spouse or registered partner.
- ☐ I meet *all* the following criteria:
 - I am 70 years or older;
 - I have served 30 years or more of imprisonment pursuant to a sentence imposed under 18 U.S.C. § 3559(c) for the offense or offenses for which I am imprisoned; and
 - I have been determined by the Director of the Bureau of Prisons not to be a danger to the safety of any other person or the community, as provided under section 3142(g).

☒ Other: I am very limited with my health. I suffering
From serious physical mental health medical condition
I am Diabetic, Depression, Neuropathy and obesity.
I am suffering and experiencing emotional and
Trauma. Physical, I have been diagnosed with
1. PTSD and personality disorder by
Dr. Schuster psychologist with FMC
Lexington

II. MOVANT'S INFORMATION

Name

Concepcion Malinek

Prisoner ID #

Reg. No: 53954-424

Bureau of Prisons Facility

Atwood F.M.C Lexington P.O. Box 14500 Lexington Ky 40512
Institutional Address 4500

III. SENTENCE INFORMATION

Date of sentencing:

April 19, 2021

Term of imprisonment imposed:

78 months

Approximate time served to date:

33 months

Projected release date:

10-7-2024

Length of Term of Supervised Release:

2 years

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

WARNING: 18 U.S.C. § 3582(c)(1)(A) allows you to file this motion after you have "fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier." Your motion may be denied if do not meet these criteria.

Have you submitted your request for a sentence reduction to the warden of the institution where you are incarcerated? ☒ Yes (Date submitted: 11-3-2021) ☐ No

If no, explain why not:

It has been 30 days since your request was received by the Warden and the Warden has not responded to your petition.

☒ Yes ☐ No

Was your request denied by the Warden? ☒ Yes (Date denied: 11-30-2021) ☐ No

Have you received a final administrative denial from either Bureau of Prisons General Counsel or the Director of the Bureau of Prisons? ☐ Yes ☒ No

V. STATEMENT SUPPORTING MOTION

Briefly describe the reasons supporting your motion. If you have checked "other" as your reason above, please describe your circumstances and how they apply here. Explain whether your circumstances were known to the court at the time of sentencing. Attach additional sheets if necessary, along with any relevant exhibits (to include medical records, if seeking release based on a medical condition).

I am Diabetic, Obesity, Depression, PTSD and Personality Disorder, Neuropathy and Disabled do to my pass accident in Guatemala January 29, 2015. I am suffering from a serious physical mental health and suffering and experiencing medical condition and mental emotions and physical Trauma. With my condition I am higher risk exposure for Covid 19. The loss my parents so painfull, in may 2020 both died due to Covid 19. I am still grieving for them. under the Compassionate Release provision of 18 U.S.C §3582 as modified by the First step act. Extraordinary and compelling my Reality and Circumstances. Extremely difficulty to practice effective distancing and hygiene to minimize risk exposure to Covid 19 to prevent transmission and impossible in the prison setting, incarcerated individuals. We have no access to products to sanitize High risk for me to exposure infection like Showering facilities, also because old building.

Please describe your proposed release plans (employment, medical needs, housing, and financial resources).

Plan Release Live with my Husband and
nice and great nice Family at 3110 S 53 Rd CT
Cicero Chicago IL 60604. At my Home with my
Husband and Family. My Husband will continue
to support me with all my needs and care.
my Husband is Fully employed and I have
medical insurance through his job.
I should be eligible for disability once released
and will apply immediately. My Financial
Situation will be secure.

VI. Medical Information

(Please fill out this section if seeking a release based on a medical condition, if not, please skip to section VII)

List any medical diagnoses, if any, that are the basis for your motion.

Diabetes, Mobility dysfunction, obesity, Neuropathy
APTSD and Personality Disorder, and Depression

Will you require ongoing medical care if you are released from prison?

☒ Yes ☐ No

Have you received the COVID-19 vaccine (mark "yes" even if you have received only the first shot)?

☒ Yes ☐ No

If yes, when did you receive the vaccine?

February - March 2021

If no, have you been offered the vaccine and refused it?

☐ Yes ☒ No

If yes, explain why you refused the vaccine.

Do you have health insurance?

☐ Yes ☒ No

But will have upon Release from
my spouses employer

If yes, provide name of insurance company and policy number. If no, how do you plan to pay for your medical care?

If no, are you willing to apply for government services (i.e. Medicaid/Medicare)? ☒ Yes ☐ No

Do you have copies of your medical records documenting the condition(s) for which you are seeking release? ☐ Yes ☒ No

If yes, please include them with your motion. If no, where are the records located?

Atwood FMC Lexington Ky P.O. Box 14500 40512 and
MCC Chicago IL

Are you currently prescribed medication in the institution? ☒ Yes ☐ No

If yes, list all prescribed medication, dosage, and frequency.

Metformin #C1 1000 MG, Mirtazapine 15 MG, Fluticasone 50 MCG
cromolyn ophth solution

Do you require durable medical equipment (e.g. wheelchair, walker, oxygen, prosthetic limbs, hospital bed)? ☒ Yes ☐ No

If yes, list equipment.

I am walking with a cane New FMC.
at Home I have wheelchair, walker and cane.

Do you require assistance with self-care such as bathing, walking, toileting? ☒ Yes ☐ No

If yes, please list the required assistance and how it will be provided.

In the shower need chair to seat, I need Rairgling
to hold.

Do you require assisted living? ☐ Yes ☒ No

If yes, please provide address of the anticipated home/facility and source of funding to pay for it.

Do you have primary care arranged in the community? ☐ Yes ☒ No

Provide name and address of your primary care physician.

Are the people you are proposing to reside with aware of your medical needs? ☒ Yes ☐ No

Do you have other community support that can assist with your medical needs? ☒ Yes ☐ No

Provide names, ages, and their relationship to you:

my husband. Jefferey Malinek 63 years old.

Will you have transportation to and from your medical appointments?

☒ Yes ☐ No

Describe method of transportation.

my husband can take me and my niece personal vehicle

VII. RELEASE PLAN

Provide proposed address where you will reside if released from prison.

3110 S 53 Rd CT Cicero IL 60804

Provide name and phone number of property owner or renter where you will reside if released from prison.

Jeffrey Malinet Cell 708-717-3182 (owner)

Provide names, ages, and relationship to you of any other residents living at the above listed address? (If the resident is a minor, do not provide the minor's full name; provide only initials.)

Maria Auxilia Pan choc (niece 34 years old - 6/10/18) 26 yrs old (niece)
Leonel Walter Maquin Rax (nephew 42 years old, brother, Marcelino Pan Muct 56 years old)
RLMP, LMMP, MMP
pan choc - CB PC.

Do the residents of the home know you are proposing to reside with them?

☒ Yes ☐ No

Are they supportive of your request?

☒ Yes ☐ No

Are you physically and mentally able to maintain employment?

☐ Yes ☒ No

Have you secured employment?

☐ Yes ☒ No


Provide name and address of employer and job duties.

VIII. MOVANT'S SIGNATURE

Sign and date the motion.

12-15-2021

Date


Movant's Signature

Concepcion Malinet

Print Name

TRULINCS 53954424 - MALINEK, CONCEPCION - Unit: LEX-S-A

FROM: 53954424

TO: Warden

SUBJECT: ***Request to Staff*** MALINEK, CONCEPCION, Reg# 53954424, LEX-S-A

DATE: 11/03/2021 09:06:00 AM

To: Paul

Inmate Work Assignment: F/S

I'm applying for Compassionate Release/Reduction of Sentence. Due to Compelling Health problems I'm a care level 2 Medically and a care level 2 Mental health. I have a home plan to return to my husband at: 3110 S. 53 CT Cicero IL. 60804 (708) 717-3182... Thank you... I Appreciate your time.

RESPONSE TO INMATE CORRESPONDENCE

Name: Malinek, Concepcion
Reg. No.: 53954-424
Unit: Atwood

This is in response to your correspondence dated November 5, 2021, in which you request to be considered for a Compassionate Release or Reduction in Sentence (RIS) based on extraordinary or compelling circumstances: risk of COVID-19.

Per Program Statement 5050.50 Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582(c)(1)(A) and 4205(g), there are certain criteria which you must meet in order to be considered for an RIS. Guidance on the types of circumstances that present extraordinary or compelling reasons, such as the inmate's terminal medical condition; debilitated medical condition; status as a "new law" elderly inmate, an elderly inmate with medical conditions, or an "other elderly inmate"; the death or incapacitation of the family member caregiver of the inmate's child; or the incapacitation of the inmate's spouse or registered partner. Your Inmate Request to Staff has been evaluated by the Bioethics Committee consistent with this general guidance.

The BOP is taking extraordinary measures to contain the spread of COVID-19 and treat any affected inmates. We recognize that you have legitimate concerns and fears about the spread and effects of the virus. However, your concern about being potentially exposed to, or possibly contracting, COVID-19 does not currently warrant an early release from your sentence. Accordingly, your RIS request is denied at this time.

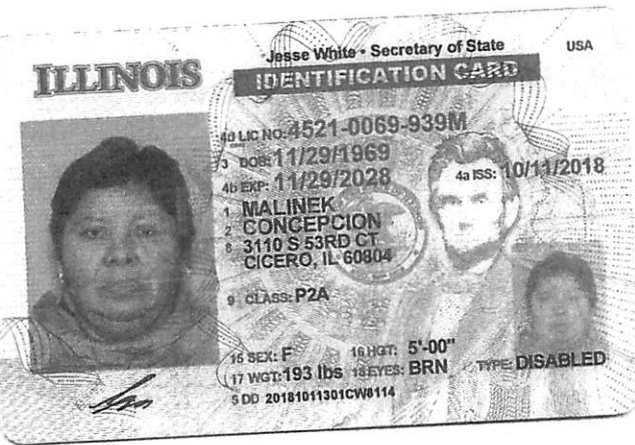
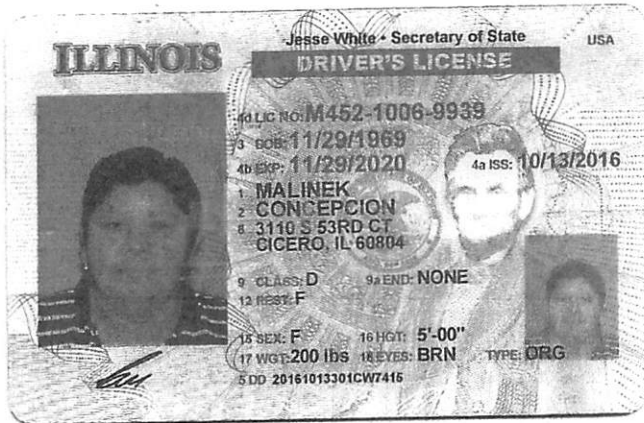
If you are not satisfied with this decision, you may appeal utilizing the Administrative Remedy Process within 20 days of receiving this notice. Your counselor or case manager will assist you with directions and appropriate forms if you request them.



David Paul, Warden

11-30-2021

Date



Union Health Service, Inc.

Identification Card

MALINEK, CONCEPCION

201105

090

F 11/29/1969

100201104

REL: Spouse

"not too big to care"

See reverse side

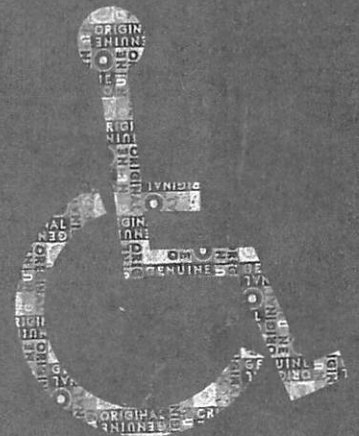
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THE AUTHORIZED HOLDER MUST BE PRESENT AND MUST ENTER OR EXIT THE VEHICLE AT THE TIME THE PARKING PRIVILEGES ARE BEING USED. UNAUTHORIZED USE MAY RESULT IN A \$500 FINE AND SUSPENSION OF DRIVER'S LICENSE AND/OR REVOCATION OF THE PLACARD.

PERMANENT

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Dec.	Nov.	Oct.	Sept.	Aug.	Jul.
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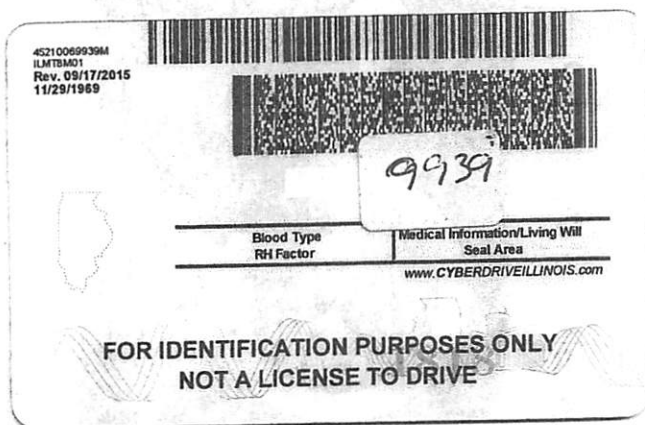
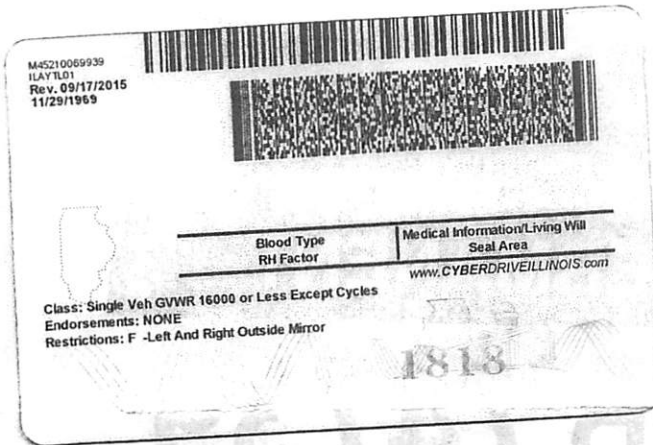


ILLINOIS

Jesse White

Secretary of State

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PERMANENT

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EXPIRES THE LAST DAY OF:

Jan. Feb. Mar. Apr. May Jun.

2022

Jul. Aug. Sept. Oct. Nov. Dec.



ILLINOIS

Jesse White

Secretary of State

Printed by authority of the State of Illinois

Possession of this card does not guarantee eligibility.
Union Health Service, Inc.

1634 W. Polk St., Chicago, Illinois 60612
24 Hour Telephone # 312-423-4200

Notice to Members and Providers: Non-emergency benefits are not covered unless they are rendered by Union Health Service, Inc.

In-Area Emergency: (Entire Metro Chicago) Call Union Health Service and state you have an emergency. Instructions will be given. Members with a severe condition should either call 911 or go to the nearest hospital and within 24 hours call Union Health Service Inc.

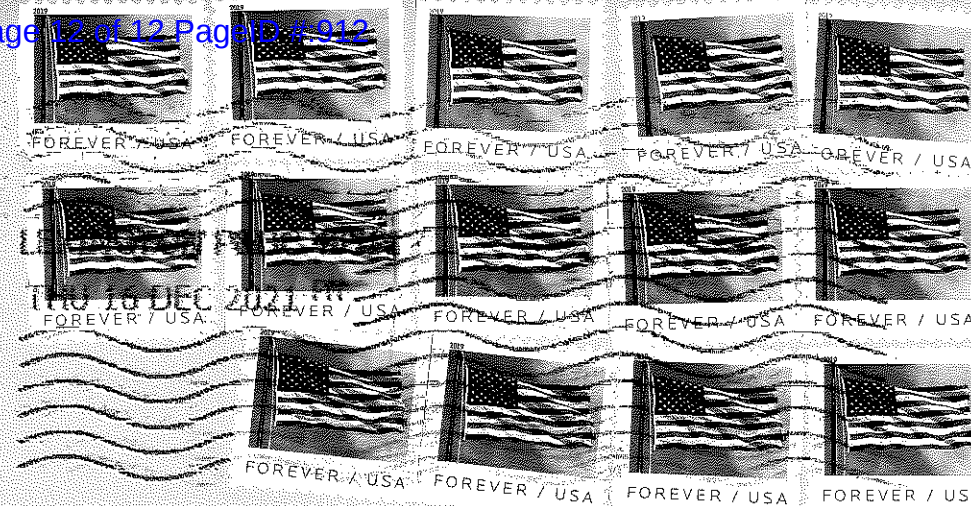
Out-of-Area Emergency: (All other areas) Patients will be covered for severe, unforeseen and sudden illness or injury that requires emergency care, necessary treatment and necessary hospitalization as determined by Union Health and the treating physician. Routine follow-up and non-emergency care is not covered.

All Hospitals and Providers: Notify Union Health Service, Inc. within 48 hours of an emergency visit and/or admission. Call 1-312-423-4200. Hospital admissions, other than for emergency care, require pre-admission certification.

Concep
Reg. No. 53954-424
F.M.C. Lexington
P.O. Box 1500
Lexington, Ky 40512-4500



12/22/2021-11



RECEIVED
DEC 22 2021
THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT

↔ 53954-424 ↔
Edmond E Chan
219 S Dearborn ST
Chicago, IL 60604
United States

Legal mail